IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH, JAIPUR.

::JUDGMENT::

STATE OF RAJASTHAN VS. BHANWAR LAL AND ANR.

D.B.CIVIL SPECIAL APPEAL (W) NO.220 OF 2004
UNDER SECTION 18 OF THE RAJASTHAN HIGH COURT
ORDINANCE AGAINST THE ORDER DATED 16.3.1999
PASSED IN SBCWP NO.5304/1997.

DATE OF JUDGMENT ::: 6.2.2007

PRESENT
HON'BLE MRS.GYAN SUDHA MISRA,J.
HON'BLE MR.K.C.SHARMA,J.

Mr. HV Nandwana GA for the State.
Mr. Deepak Goyal for the respondents.

BY THE COURT:

This appeal has been preferred against the judgment and order of the learned Single Judge dated 16.3.1999 by which the writ petition filed by the State of Rajasthan against the award passed by the Labour Court, Kota was partly rejected in so far as the challenge to the reinstatement of the respondent-workman is concerned. The learned Single Judge, however, was pleased to allow the writ petition regarding grant of back-wages, but modified it to the extent that the same will be granted not from the date of reinstatement but from the date of passing of the award.

Assailing the judgment and order of the learned Single Judge as also the award of the labour court, the counsel for the State of Rajasthan first of all vehemently contended that the Labour Court as also the learned Single Judge was not justified in upholding the award of reinstatement in favour of the respondent-workman as the Division in which the respondent had been working, had itself been closed and therefore, his termination could not have been held illegal and he had no right to continue in the service of the organisation where he had been employed.

In order to test the correctness of his argument, we examined and scrutinised the evidence recorded by the Labour Court in so far as the closure of the Division is concerned and we have noticed that the contention of the counsel for the appellant-State is incorrect on this factual aspect also as the Labour Court has categorically recorded a finding based on cogent evidence that the Division had not been closed where the appellant had been working. Therefore, the contention on this count gets demolished by the evidence led by the appellant-State itself.

It was next contended that the Labour Court was not justified in granting 25% of back-wages to the respondent-workman as he was gainfully employed in a Cinema house receiving Rs.32 per day. On this aspect, it was explained by the counsel for the respondent-workman that the respondent-workman had been engaged and was working with the appellant on a semi-permanent basis and was drawing a much higher salary than he was earning in the Cinema house. In that event, if 25% wages only has been granted to him by the Labour Court, which has been modified by the learned Single Judge by allowing him to draw the wages along with continuity of service from the date of award only, we do not consider it a fit case for further interference. The appeal thus has no substance and hence it stands dismissed at the admission stage itself.

(K.C.SHARMA)J. (GYAN SUDHA MISRA)J.

PCG